

BORA LASKIN LAW LIBRARY



3 1761 10083581 8

Store

KF

1244

A7

C72

1971

Crawford, Bradley

Restitution cases and notes.

With revisions for 2d print.

Store

KF

1244

A7

C72

1971



KF
1244
A7
C72
1971

RESTITUTION

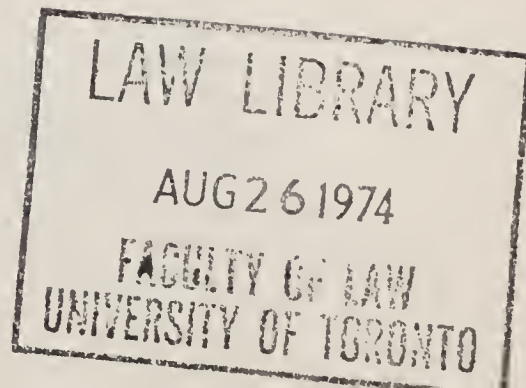
Cases and Notes

edited by

BRADLEY CRAWFORD
B. Com., LL.B., LL.M.
of the Law Society
of Upper Canada

PROFESSOR
FACULTY OF LAW
UNIVERSITY OF TORONTO

with revisions for second printing
1971



inches

25.5

27

COPYRIGHT
BRADLEY CRAWFORD
1969
1971

PREFACE

These cases and notes are a product of my interest in the law of restitution dating back to 1961 when I attended the seminar in the subject offered by Robert Goff, Q.C. and Professor Aubrey Diamond at the London School of Economics and Political Science. In the intervening period Mr. Goff, with Gareth Jones of Cambridge University has published an excellent text, I have taught my own seminar at the Faculty of Law, University of Toronto and restitution has slowly risen to the status of a recognized "Subject" in the curricula of a few Canadian law schools. More conspicuously, it has also risen to trouble more than a few judicial heads with its unfamiliar terminology and dangerously vague-sounding 'principles'. I think that the reason for the delayed acceptance of restitution as an integrated part of Canadian law (the American Law Institute's Restatement of the subject was, after all, published in 1936 -- the year of my birth) is partly to be found in its rather peculiar, tortured history, but its continuing unfamiliarity among teachers, counsel and courts, even after most of the historical difficulties have been swept aside must be related least in part to the fact that even in current editions of our standard legal search and reference works one may look in vain for the topic eo nomine. In order to assemble even the present collection it has been necessary for me to scour virtually half of the volumes of the Canadian Abridgement -- and I greatly regret not having had the time to scour the others. It was partially in the hopes of producing a useful teaching aid for my own students at the University of Toronto Faculty of Law and for the new courses springing up in other law schools but also in the hopes of providing the other branches of the legal profession with a convenient source of Canadian references that I undertook the publication of my still-incomplete notes and syllabus at this time. It is my further hope that with the fresh attention which may be thus brought to the available Canadian precedents we may complete the task of fashioning a mature law of restitution for Canada, and arrest (if not end completely) the distressingly common tendency at present for counsel and courts when faced with a problem of restitution, to throw up the names of 3 or 4 leading cases having nothing to do with the particular problem at hand (usually Moses v. Macferlan, Brooks Wharf, Fibrosa and Degiman) and end with a plea for "equity" and fair dealing.

In the editing and arrangement of the material I have attempted to balance and to serve the common needs of student, teacher and practitioner. The chapters and sections follow the general outline of Goff and Jones, The Law of Restitution (1965) which (as I have said elsewhere) has many advantages in providing an easy entree for those untrained in or unfamiliar with the basic theoretical structure of the subject. Even so, it has been necessary to make slight changes in the interest of

more effective teaching. To the same end the cases reproduced in full were chosen for their capacity to stimulate argument as much as for their venerability or stature as precedents. This has meant relegating more than a few loci classici and many more recent cases to the interstercial notes, where (hopefully) their force may still be felt and their contribution noted by those whose needs at the moment run more to ideas, authority and precedent than intellectual stimulation. Similarly, and as well to the end of making the students' task of reading more easy, I have retained (or composed) brief headnotes or catchlines and abbreviated the citations of precedents in the principal cases (but not in the notes) to their year and (where necessary to clarify) jurisdiction. As a result, it ought to be possible for readers to discover at a glance, the thrust of any particular case, and the general drift of whole sections. At the same time, not so much of the reasoning of the case is disclosed that such students as might be inclined to rely solely on the catchlines cannot be readily exposed in class. Those requiring a full citation for a case referred to in edited form may find it in the Table of Cases. At 432 pages, the book is designed for use in a 45-hour course, the students being expected to prepare about 12 pages of reading for each classroom hour. Courses of 30 - 36 hours may be fashioned in various ways, in the discretion of the instructor.

I am grateful to Dean R. St. J. Macdonald and the University of Toronto for their financial assistance in producing the present volume; to Misses Linda Ramsay, Vera Russell and Lorraine Woytowich for typing the manuscript; to my wonderful wife, Diana, for some typing, some proof reading, preparing the Table of Cases, and generally pitching in where needed, and, finally, to my students for their sustaining interest, vigorous criticism and the challenge of their continually fresh approach.

78 Queens Park Cres.
Toronto
30 August, 1969

B.C.

TABLE OF CONTENTS

Preface	iii
Table of Cases	x
 Chapter I	
<u>INTRODUCTION</u>	1
Section 1 :- Common Law Remedies	1
Scope note	1
Development of quasi contracts	2
Ames 'Implied Assumpsit' (1913)	3
Note - history	6
<u>Moses v. Macferlan</u> (1760)	7
Note - terminology	10
<u>Brook's Wharf & Bull Wharf Ltd. v. Goodman Bros.</u> (1937)	12
Landon	17
Note - theoretical debate	18
Keener	20
<u>Sinclair v. Brougham</u>	21
Winfield	23
Wade	27
<u>Lamine v. Dorrell</u> (1705)	28
Lord Atkin - waiver of tort	30
Winfield	31
<u>Lamson & Hubbard v. Calhoun</u> (1923)	33
Notes - quantum meruit	36
<u>Degelman v. Guaranty Trust Co. and Constantineau</u>	38
Sheldon	41
Schiff	44
Notes - beneficial services	45
<u>Estok v. Heguy</u> (1963)	48
Notes - cause of action	50
- limitation	53
- priority	54
Section 2 :- Equitable Remedies	57
Scope note	57
Scott 'Constructive Trusts'	57
Waters	59
Taylor	60
<u>Roblin v. Jackson</u> (1901)	61
Notes - constructive trust	66
<u>Glavasky v. Stadnick</u> (1937)	69
Taylor - equitable lien	69
Notes - equitable lien	74
Note - subrogation	75
<u>Brown v. McLean</u> (1889)	76
Note (concl.)	80
<u>Whitham v. Bullock</u> (1939)	80
Note - contribution	83

Chapter II	<u>BENEFITS ACQUIRED BY MISTAKE</u>	84
Scope note		84
Section 1 :- Mistake of Fact		85
<u>Royal Bank v. The King</u> (1931)		85
Note - honest mistake		90
- between the parties		91
- supposed obligation		93
- no equity in defendant		95
<u>Krebs v. World Finance Co. Ltd.</u> (1958)		95
Note - discharge for value		98
- change of circumstances		100
<u>Purity Dairy Ltd. v. Collinson</u> (1966)		102
<u>Clark v. Eckroyd</u> (1885)		107
Cohen 'Change of Position'		109
- contract right		112
<u>Craddock Bros. v. Hunt</u> (1923)		117
Notes - mistake and unjust enrichment		122
<u>In re Inrig Shoe Co. Ltd.</u> (1924)		125
Section 2 :- Mistake of Law		127
<u>O'Grady v. City of Toronto</u> (1916)		127
Notes - distinguishing fact and law		129
- scope of equitable relief		131
<u>Rogers v. Ingham</u> (1876)		134
Note 'Rationale of Mistake of Law' (1932)		138
<u>Kiriri Cotton Co. v. Dewani</u> (1960)		141
Chapter III	<u>BENEFITS FROM WRONGFUL ACTS</u>	145
Scope note		145
Section 1 :- Criminal Acts		146
<u>Re Johnson</u> (1950)		146
Notes - proving illegality		149
<u>Schobelt v. Barber</u> (1967)		151
Notes - public policy		154
<u>Bunting v. Hartford Accdt. & Ins. Co.</u> (1955)		157
Note - illegality in contract		161
<u>Sidman v. Wehltams Investments Ltd.</u> (1967)		165
Note - tracing at common law		169
<u>Taylor v. Plumer</u> (1815)		172
<u>Banque Belge v. Hambrouck</u> (1921)		175
- tracing (cont.)		179
<u>Merchants Express Co. v. Morton</u> (1868)		184
<u>Regina v. Hargreaves</u> (1959)		186
Section 2 :- Waiver of Tort		191
Scope note		191
<u>United Australia Ltd. v. Barclay's Bank</u> (1941)		192
Notes - procedure		197
- Fridman		197
- Stoljar		199
- scope of application		200

<u>General Security Ins. Co. v. Howard Sand & Gravel Co. Ltd.</u> (1954)	202
Notes - measure of recovery	206
<u>Strand Electric Ltd. v. Brisford Entertainments Ltd.</u> (1952)	209
Notes - measure of recovery (cont.)	212
<u>Olwell v. Nye & Nissen Co.</u> (1946)	217
 Section 3 :- Dishonoured Undertakings	 221
 Subsection 1 :- <u>Shamia v. Joory</u>	 221
<u>Shamia v. Joory</u> (1958)	223
Davies - 'A Forgotten Chapter of Quasi-Contract' (1959)	226
Ed.note - unjust enrichment	231
 Subsection 2 :- Other dishonoured undertakings	 233
Notes - scope	233
- promise to give land	234
- third party beneficiary problem	236
- incomplete gift	239
<u>Dagley v. Dagley</u> (1905)	240
Notes - (cont.) - banker's promise	246
<u>Unsworth v. Grant</u> (1969)	248
Notes - no profit from own wrong	256
- breach of confidence	258
<u>Lord Strathcona Steamship Co. v. Dominion Coal Co.</u> (1926)	259
Notes - covenant running with chattel	
 Section 4 :- Failings By Fiduciaries And Others In Like Position	 265
Scope note	265
Scott 'The Fiduciary Principle' (1949)	265
Sealey 'The Fiduciary Relationship' (1962)	267
<u>Reading v. A.-G.</u>	269
Ed. note - <u>Keech v. Sandford</u>	273
<u>Regal Hastings Ltd. v. Gulliver</u>	274
<u>Boardman v. Phipps</u> (1964)	278
Note - scope of office	289
<u>Peso Silver Mines (NPL) Ltd. v. Cropper</u> (1965)	290
Notes - the mining and petroleum exploration industry	300
<u>McLeod and More v. Swezey</u> (1944)	303
Note - scope of fiduciary duties	306
<u>Tombill Gold Mines Ltd. v. Hamilton</u> (1956)	308
<u>Midcon Oil & Gas Ltd. v. New British Dominion Oil Ltd.</u> (1958)	314
Batlem 'The Scope of the Fiduciary Relationship' (1963)	327
<u>Pre-Cam Exploration & Development Ltd. and Murtack v. McTavish</u> (1966)	328
<u>Nelson v. Larholt</u> (1947)	332
 Section 5:- Tracing	
Scope note	335
Scott 'The Right To Follow Money' (1913)	335

Note - practice	337
- Clayton's case	338
<u>In re Hallett's Estate</u> (1879)	340
<u>In re Oatway</u> (1903)	343
Note - requirements of fund	348
- requirement of trust	352
- restoration by fiduciary	361
- swollen assets theory	362
- profit from fund	366
<u>British Canadian Securities Ltd. v. Martin</u> (1917)	368
Note - apportioning losses from fund	378
<u>In Re Diplock</u> (1948)	381
Note - tracing in stockbroker bankruptcies	402
<u>Re C.A. MacDonald & Co. Ltd.</u> (1958)	403
 Section 6:- Compulsion	411
Note - duress	411
<u>Stoltze v. Fuller</u> (1939)	412
<u>Murray v. Veinotte</u> (1951)	417
Note - threat of legal process	422
<u>Pople v. Town of Dauphin</u> (1921)	424
Note - threat of extra-legal sanction	427
<u>George (Porky) Jacobs Enterprises Ltd. v.</u> <u>City of Regina</u> (1964)	429
<u>Eadie v. Township of Brantford</u> (1967)	433
Note - 'Mistake of Law and Practical Compulsion' (1967)	441
Note - 'Restitution - Unconscionable Transaction - Undue Advantage Taken of Inequality Between Parties' (1966)	452
<u>Inche Noriah v. Shaik Allie Bin Omar</u> (1929)	463
Notes - unconscionability	467
<u>Griesshammer v. Ungerer and Miami Studios of</u> <u>Dancing</u> (1958)	468
Note - Berton 'The Gospel According to Arthur Murray'	473
<u>W.W. Distributors & Co. Ltd. v. Thorsteinsson</u> (1960)	477
Note - Berton (cont.)	479
- unconscionability (cont.)	481
 Chapter IV <u>UNREQUESTED BENEFITS</u>	485
Note - Hope 'Offiousness' (1929)	486
- Canadian usage	488
<u>Norton v. Haggett</u> (1952)	490
Note - benefit to be paid for	491
<u>Falcke v. Scottish Imperial Ins. Co.</u> (1886)	493
Notes - payment of another's debt	498
<u>Re Jacques</u> (1968)	
<u>Tucker v. Puget Sound Bridge & Dredging Co.</u> (1910)	508
Notes - work redounding to benefit of another	510
- Williston 'Agency of Necessity' (1944)	511
<u>Hastings v. Village of Semans</u> (1946)	512
Note - agency of necessity (cont.)	516
- unofficial intervention	519
1. supplying necessities to third party	520
2. ditto - emergency services	521
<u>Porter v. Grand Trunk Pacific Rlwy</u> (1919)	522
Note - (cont.)	
3. public duty	524

1. preservation of life or health	526
<u>Matheson v. Smiley</u> (1932)	526
Note - (cont.) - knowledge of dissent	529
5. preservation of property or credit	531
<u>In re Pike</u> (1888)	532

TABLE OF CASES

AAS v. Benham, [1891] 2 Ch. 244	281, 282, 285, 287
Abell v. Morrison (1890), 19 O.R. 669	79
Adams v. Craig (1911), 21 O.L.R. 490	246
Aiken v. Short (1856), 1 H. & N. 210; 156 E.R. 1180	62, 93, 98
A.-G. Canada v. Vancouver, [1943] 1 D.L.R. 510 (B.C.C.A.)	114
Algo Sunderland Ltd., in re, (1962), 3 C.B.R.N.S. 245	351
Allanson v. Atkinson (1813), 1 M. & S. 583; 105 E.R. 218	63
Allcard v. Skinner (1887), 36 Ch.D. 115	165
Allison v. Allison, [1913] 2 W.W.R. 628	71, 75
American Sugar Refining Co. v. Fancher, 40 N.E. 206 (N.Y., 1895)	336
	355
Anderson v. Morgan (1917), 34 D.L.R. 728 (Alta. C.A.)	
Andrews Bros. v. Singer & Co., [1934] 1 K.B. 17 (C.A.)	185
Anglo-Scottish Beet Sugar Co. v. Spalding U.D.C., [1937] 2 K.B. 607	90
Archbolds (Freightage) Ltd. v. Spanglett Ltd., [1961] 1 All E.R. 417	161
Archibald v. Flynn (1872), 32 U.C.Q.B. 523 (C.A.)	520
Arding v. Buckton (1956), 6 D.L.R. (2d) 586 (B.C.C.A.)	47, 414
Armoury v. Delamirie (1720), 1 Str. 505; 93 E.R. 664	316
Arnett & Wensley Ltd. v. Good (1967), 64 D.L.R. (2d) 181 (B.C.)	17
	500
Arris v. Stukely (1677), 2 Mod. 260; 88 E.R. 1060	4
Astley v. Reynolds (1731), 2 Str. 915; 93 E.R. 939	414
Atlee v. Backhouse (1838), 3 M. & W. 633; 150 E.R. 1298	132
Attorney-General v. Goddard (1929), 98 L.J. (K.B.) 743	272
BAKER (Chas.) Ltd. v. Baker, [1954] O.R. 418	297, 298, 325
Ballantyne Business Printers, Ltd., in re, [1951] 3 D.L.R. 329 (O.C.A.)	360, 362
Bank of Montreal v. Thomas (1889), 16 O.R. 503	248
Bannister v. Bannister, [1948] 2 All E.R. 133 (C.A.)	235
Banque Belge Pour L'Etranger v. Hambrouck, [1921] 1 K.B. 321 (C.A.)	87, 175
Barish v. Gap 39 (R.M.) & Biss, [1925] 3 D.L.R. 738 (S.C.A.)	114
	444, 488
Bater v. Bater, [1950] 2 All E.R. 458, 459	150
Bavins v. I. & S.W. Bank, [1900] 1 Q.B. 270	31, 200
Baxter & Co. v. Jones (1906), 4 O.L.R. 541	233
Bayda v. Canada N. Dakota Land Co. (1913), 13 D.L.R. 1	80
Baylis v. Bishop of London, [1913] 1 Ch. 127	25, 99, 106
Beamish v. Lawlor (1915), 43 N.B.R. 426	366
Beaver Valley Developments Ltd. v. Twp. of North York (1960), 23 D.L.R. (2d) 341	436
Beaird v. Carter (1904), 3 O.W.R. 70	179
Beaumont v. Boulton (1802), 7 Ves. 599; 32 E.R. 241	269
Bell, in re, (1908), 99 L.T. 939	360
_____ v. Gardiner (1842), 4 Man. & G. 11; 134 E.R. 5	87
_____ v. Lever Bros. Ltd., [1932] A.C. 161	123
Beresford v. Royal Ins. Co., [1937] 2 K.B. 197 affd, [1938] A.C. 586	160
Berry, in re, 147 F. 208 (C. Apps., 1908)	255
Beswick v. Beswick, [1967] 2 All E.R. 1197; affg, [1966] 3 All E.R. 1; revg, [1965] 3 All E.R. 858	238
Bethune v. The King (1912), 4 D.L.R. 229; 26 O.L.R. 117	94, 450
Bigos v. Boustead, [1951] 1 All E.R. 92	154
Bilbie v. Lumley (1802), 2 East 469; 102 E.R. 448 (K.B.)	129, 139
	441

Bingham v. Bingham (1748), 1 Ves. Sen. 126; 27 E.R. 934	133, 136
Binstead v. Buck (1777), 2 W.Bl. 1117; 96 E.R. 660	516
Birmingham & Staffs Gas Co. v. Ratcliffe (1871), L.R. 6 Ex.224	200
Birt v. Burt (1877), 11 Ch. 773n	405
Boardman v. Phipps, [1966] 3 All E.R. 721 affg, [1965] 1 All E.R. 849 and [1964] 2 All E.R. 187	278
Bodega Co. Ltd., in re, [1904] 1 Ch. 276	93, 97
Boissevain v. Weil, [1950] A.C. 327	48
Bond v. Maritime Nail Ltd. (1924), 51 N.B.R. 343 (C.A.)	121
Bonnel v. Foulke (1657), 2 Sid. 4; 82 E.R. 1224	4.
Bonner v. Tottenham & Edmonton Perm. Inv. Bldg. Soc., [1899] 1 Q.B. 161	18, 82
Boston Ice Co. v. Potter, 25 Am.Rep. 9 (Mass., 1877)	492
Boulton v. Jones (1857), 2 H.& N. 564; 157 E.R. 232	491, 492
Brisbane v. Dacres (1813), 5 Taunt. 143; 128 E.R. 641	102, 422, 441
Britain v. Rossiter (1879), 11 Q.B.D. 123	40, 42
British Canadian Securities Ltd. v. Martin (1917), 11 W.W.R. 1313 (Man. K.B.)	368, 379
Brock and Petty v. Gronbach, [1952] 3 D.L.R. 490 (Man. C.A.) revd [1953] 1 D.L.R. 785 (SCC)	457
Brogden v. Brogden (1920) 53 D.L.R. 362 (Alta. C.A.)	245
Brook's Wharf & Bull Wharf Ltd. v. Goodman Bros, [1937] 1 K.B. 534; [1936] 3 All E.R. 696 (C.A.)	12, 16, 17 18, 19, 23
Broom v. Cassell & Co. Ltd. [1971] 2 All E.R. 187	217
Bronn v. Adams (1869), 4 Ch.App. 764	347
_____ v. McLean (1889), 18 O.R. 533	76, 79
_____ v. Storoschuk, [1947] 1 D.L.R. 227 (B.C.C.A.)	234
Browning v. Morris (1778), 2 Cowp. 790; 98 E.R. 1364	142, 432
Brownlie v. Campbell (1880), 5 App. Cas. 925	87
Bryant, Isard & Co., in re, (1925) 29 O.W.N. 167; 7 C.B.R.44	406
Buchanan v. Kerby (1855), 5 Gr. 332	
Building & Loan Ass'n. v. McKenzie (1897), 28 O.R. 316	253
Bunting v. Hartford Accdt. Ins. Co. [1955] O.W.N. 21 (Co.Ct.)	157
Burdick v. Gorrick (1870), L.R. 5 Ch. 233	306
Burge, Woodall & Co., in re, [1912] 1 K.B. 393	410
Burnett v. Lynch (1826), 5 B.& C. 589; 108 E.R. 220	31
Burrones v. Lock (1805), 10 Ves. 470; 32 E.R. 927	116
Burrows v. Rhodes, [1899] 1 Q.B. 816	159
CADAVAL (Duke) v. Collins (1836), 4 Ad.& E. 858; 111 E.R. 1006	423
Callwood Engr. Co. v. Niagara Trust Poultry Ltd., [1963] 2 O.R. 188	170
Calmusky v. Karaloff, [1946] 2 D.L.R. 513 (Sask.C.A.)	457
Campbell v. Campbell [1932] 3 D.L.R. 501 (N.S.C.A.)	245
Campbell Soup Co. v. Wentz, 172 F.2d 80 (3d.Cir, 1948)	182
Canadian Fishing Tackle Ltd. v. Davie [1960] O.W.N. 499	379
Canadian Mtge. Corp. v. City of Regina, [1917] 1 W.W.R. 1130 (Sask.C.A.)	87, 94, 115, 446
Canadian Orchestrphone Co. Ltd. v. Br. Canadian Trust Co.(1932), 14 C.B.R. 66 (Alta.)	352
Carpenter's Estate (1895) 32 A. 637 (Pa., 1895)	147
Carroll & Wright, in re; ex.p. Bain, [1932] 3 D.L.R. 410; 14 C.B.R. 36 (Ont.)	406
Carter v. Carter (1829), 5 Bing. 406; 130 E.R. 1118	411
_____ v. Palmer (1842), 8 Cl.& F. 657; 8 E.R. 256	269
Castellain v. Preston (1883), 11 Q.B.D. 380 (C.A.)	75
Cavendish v. Middleton (1628), Cro.Car 141; 79 E.R. 725	200
Caxton Publishing Co. v. Southern Publishing Co. Ltd., [1939] A.C. 178	212
Chalmers v. Pardoe, [1963] 3 All E.R. 552	245
Chambers v. Miller (1862), 13 C.B.(N.S.) 125; 143 E.R. 50 R.R. 479	87, 91
Chapman v. Michaelson, [1908] 2 Ch.612 affd, [1909] 1 Ch.238	165
Charlton, in re, [1968] 2 O.R. 96; (1968) 3 D.L.R.(3d) 623 (Ont.C.A.)	150
Chartered Trust Co. v. Benjamins (1965), 49 D.L.R.(2d) 1(S.C.C.)	366
Chesterfield (Earl) v. Janssen (1751), 2 Ves. Sr. 125; 28 E.R. 82	455

Chettiar v. Chettiar, [1962] A.C. 294	164
Chinery v. Viall (1860), 5 H.& N. 288; 157 E.R. 1192	207
Chion, ex p. (1735), 3 P.Wms. 287; 2 Eq. Cas. Abr. 114; 22 E.R. 97	174
Citizens Bank of Louisiana, etc. v. First National Bank of New Orleans (1873), L.R. 6 H.L. 352	245
City of Moncton v. Stephan (1956), 5 D.L.R. (2d) 722 (N.B.)	51
Clark v. Eckroyd (1885), 12 O.A.R. 425	107
Clark Martin & Co., in re, [1934] 1 D.L.R. 521; 15 C.B.R. 89 (Man.)	406
Clark (R.P.) & Co. (Vancouver) Ltd., in re, (1931), 44 B.C.R. 301; 13 C.B.R. 118	407
Clarke v. Shee and Johnson (1774), 1 Cowp. 197; 98 E.R. 1041	31
	171, 200
Clayton's Case, Devaynes v. Noble (1817), 1 Mer. 572; 35 E.R. 781	338, 341, 345, 347, 377, 378, 379, 380
Cleaver v. Mutual Reserve Fund Life Ass'n. [1892] 1 Q.B. 147 (C.A.)	146, 148
Cocks & Masterman (1829), 9 B.& C. 902; 109 E.R. 335	108
Coggs. v. Bernard (1703), 2 Ld. Raym. 909; 92 E.R. 107	233
Cohen, in re, [1964] 1 O.R. 150	338, 378
_____ v. J. Lester Ltd., [1938] 4 All E.R. 188	165
_____ v. Roche, [1927] 1 K.B. 169	170
Collen v. Gardner (1856), 21 Beav. 540; 52 E.R. 968	511
Colonial Bank v. Exchange Bank (1885), 11 App. Cas. 84 (P.C.) 92, 98	
Colville Transport Ltd., in re, (1947), 28 C.B.R. 262(Ont.) 360, 379	
Confederation Life Assn. v. Merchants Bank of Canada (1894), 10 Man.R. 67 (C.A.)	87, 92
Connick v. Carmichael(R.M.), [1923] 4 D.L.R. 994; 3 W.W.R. 1244	115, 133
Continental Caoutchouc & Co. v. Kleinwort Sons & Co. (1904), 90 L.T. 474	99
Cooke, ex p. (1876), 4 Ch.D. 123 46 L.J.Ch. 52	176, 372
Coomber, in re, [1911] 1 Ch. 723	268
Cooper v. Phibbs (1867), L.R. 2 H.L. 149	94, 128, 241
Co-operative Fishing Ltd. v. Can. Imp. Bank of Commerce (1969) 7 D.L.R. (3d) 610 Sask.	92
Copeman v. Gallant (1695), 1 P. Wms. 314; 24 E.R. 404	174
Cornwallis v. C.P.R. (1890), 19 S.C.R. 702 7 Man.R. 1	441
Corseillis, Lawton v. Elwes, in re, (1883) (1887) 34 Ch.D. 675	281
	285
Cotnam v. Wisdom, 104 S.W. 164 (Ark., 1907)	528
County of Carleton v. City of Ottawa (1965), 52 D.L.R. (2d) 220 (S.C.C.)	16, 54, 453, 499, 521
Coupland Acceptance Ltd. v. Walsh, [1954] 2 D.L.R. 129 (S.C.C.)	501
Coyne v. Broddy (1888), 13 O.R. 173	306
Craddock Bros. v. Hunt, [1923] 2 Ch. 136	114, 117, 122
Craftsmen Painting Contractors Ltd., in re, (1967), 67 D.L.R. (2d) 37 Ont.)	350
Crighton v. Roman, [1968] 1 O.R. 769 (C.A.) (1969), 3 D.L.R.(3d) 673 (S.C.C.)	368
Cripps v. Woessner (1917), 36 D.L.R. 80 (Man.)	470
Croasdaile v. Hall (1895) 3 B.C.R. 384 (B.C.C.A.)	36
Cross v. Cleary (1898) 29 O.R. 542 (C.A.)	42
Curry, in re, (1898), 25 O.A.R. 267	338
Cushen v. City of Hamilton (1902), 4 O.L.R. 265	128, 129, 423
	425, 441
DAGLEY v. Dagley (1905), 38 N.S.R. 313	233, 240
Dale & Co. exp., (1879), 11 Ch.D. 772	267
Daly v. Brennand (1921), 60 D.L.R. 35 (Alta.C.A.)	192
Daniell v. Sinclair (1881), 6 App. Cas. 181	132
Davies v. Otty (No.2) (1865), 35 Beav. 208; 55 E.R. 875	235
Davey v. Cornwallis, [1931] 2 D.L.R. 80 (Man.C.A.)	524, 528
Dawson v. Linton (1882), 5 B.& Ald. 521; 106 E.R. 1281	14, 17
Day v. Rutledge (1898) 12 Man.R. 290; affd (1899), 29 S.C.R. 441 sub. nom. Lawlor v. Day	251

Dean v. MacDowell (1878), 8 Ch.D. 375 (C.A.)	282, 287, 289, 290
Degelman v. Guaranty Trust Co. of Canada & Constantineau, [1954] 3 D.L.R. 785 S.C.R. 725	16, 17, 26, 38, 41, 43, 44 46, 47, 236, 453, 508
De Mattos v. Gibson (1859), 4 de G. & J. 276; 45 E.R. 108 (C.D.)	260 261, 263
Derry v. Peek (1887), 14 App.Cas. 337	200
Deutsche Bank v. Beriro & Co. (1895), 73 L.T. 669	99, 102
Devaynes & Noble; Clayton's Case (1816) 1 Mer. 572; 35 E.R. 781 see Clayton's Case	
Dickman v. Dickman (1953), 8 W.W.R. 329	74, 226
Dickson v. Reuter's Telegraph Co. (1877), 3 C.P.D. 1	109
Dillwyn v. Llewellyn (1867), 45 E.R. 1285 4 De.G.F. & J. 517	243
Dimensional Investments Ltd. v. The Queen (1967), 64 D.L.R. (2d) 632 (S.C.C.)	467
Diplock, in re, [1948] 1 Ch. 465 (C.A.) affd sub.nom. Ministry of Health v. Simpson, [1951] A.C. 251	68, 179, 269 352, 381
Dipple v. Corles (1853), 11 Hare 183; 68 E.R. 1239	234
Dixon v. Olmuis (1787), 1 Cox.Eq. 414; 29 E.R. 1227	160
Doe dem Morgan v. Boyer (1852), 9 U.C.Q.B. 318 (C.A.)	444
Dominion Bank v. Jacobs, [1951] 3 D.L.R. 233 (Ont.)	92
Dominion Bank v. Union Bank of Canada (1908), 40 S.C.R. 366	87, 95 101
Dominion Ticket & Financial Corp., in re; ex p. Aker, [1924] D.L.R. 807 (Man.)	359
Donoghue v. Stevenson, [1932] A.C. 562	25
Dowling v. Betjemann (1862) 2 J. & H. 544; 70 E.R. 1175	170
Dryden Construction Ltd. v. H.E.P. Commrs. (1958), 14 D.L.R. (2d) 702 (C.A.)	338
Dumas, in re, ex p. Jullian (1754), 1 Atk. 232; 26 E.R. 149	61
Dumpor's Case (1601), 4 Co. Rep. 119b; 16 E.R. 1110	195
Dunlop v. Dunlop (1894), 1 N.B.R. 72	356
_____ v. Selfridge, [1915] A.C. 847	236
Durable Tire Retreaders Ltd. v. Earle (1960), 26 D.L.R. (2d) 490 (N.S.)	338, 379
Durrant v. Ecclesiastical Commrs. (1880), 6 Q.B.D. 234	90, 100, 109
EADIE v. Township of Brantford (1967), 63 D.L.R. (2d) 561 (S.C.C.)	433, 441
Eaglesfield v. Marquis of Londonderry (1876), 4 C.L.D. 693	130
Eastgate, in re, [1905] 1 K.B. 465	170
Eastland v. Burchell (1878), 3 Q.B.D. 432	520
Eastwood v. Kenyon (1840), 11 Ad. & E. 438; 113 E.R. 482	115
Edmunds v. Wallingford (1885) 14 Q.B.D. 811 (C.A.)	82
Edwards v. Lee's Adm'r. 96 S.W. 2d 1028 (Ky., 1936)	208
Emele Estate, in re, [1941] 4 D.L.R. 197 (Sask.)	150
Empire Brass Mfg. v. Moxley (1957), 21 W.W.R. 316	231
Emsworth v. Farrar, [1966] 2 All E.R. 107 (C.A.)	54
Estok v. Heguy (1963) 40 D.L.R. (2d) 88; 43 W.W.R. 16 (B.C.)	48, 51
Ewing v. Snelgrove, [1927] 4 D.L.R. 1028	416
Evans v. Schneider (1922), 66 D.L.R. 758 (Alta. C.A.)	516
Exall v. Partridge (1799), 8 T.R. 308; 101 E.R. 1405	16, 18, 83
FAHIE'S Nursing Home Ltd. v. Town of Liverpool (1968), 68 D.L.R. (2d) 256 (N.S.)	516
Fairbanks, Gosselin & Co., in re, (1922) 2 C.B.R. 527	366
Falcke v. Scottish Imperial Ins. Co. (1886), 34 Cl.D. 234	38, 115 486, 493
Falconbridge Mines v. M.N.R. (1966), 55 D.L.R. (2d) 1 (S.C.C.)	300
Farquhar v. Swicker (1908), 41 S.C.R. 30	231
Farquharson v. King Bros., [1902] A.C. 325	99
Faulkner v. Faulkner (1892), 23 O.R. 252	238

Featherstonehaugh v. Fenwick (1810), 17 Ves. 298; 34 E.R. 115	326
Federal Discount Corp. Ltd. v. St. Pierre (1962), 32 D.L.R. (2d) 86 (Ont.C.A.)	462
Feltham v. Terry (1773), Lofft 207; 98 E.R. 613	200
Ferguson v. Zinn, [1933] 1 D.L.R. 300 (Ont.)	500
Fibrosa Spolka Akcyjna v. Fairbairn Lawson Combe Barbour, Ltd. [1943] A.C. 32	16, 26, 39, 43, 50, 143, 285, 506
Finelli v. Dee (1968), 67 D.L.R. (2d) 393 (Ont.C.A.)	489
Fisher v. Apollinaris (1875) L.R. 10 Ch.App. 297	416
_____ v. Spohn (1883), 4 C.L.T. 446 (Ont.)	77, 78
Fitzgerald v. Dressler (1859), 7 C.B.N.S. 374; 141 E.R. 861	247
Fleet v. Perrins (1868), L.R. 3 Q.B. 536	230
Flower v. Sadler (1882), 10 Q.B.D. 572	415
Follis v. Albemarle Tp. et al. [1941] 1 D.L.R. 178; O.R. 1	253
Foster v. Emerson (1854), 5 Gr. 147	244
_____ v. Stewart (1814), 3 M.& S. 191; 105 E.R. 582	31, 191, 202
Freedman v. D. Thompson Ltd. (1968), 66 D.L.R. (2d) 465 (S.C.C.)	511
Freeman v. Freeman, 43 N.Y. 34	242
Frith v. Cartland (1865), 2 H.& M. 417; 71 E.R. 525	374, 405
Fry v. Lane (1888), 40 Ch.D. 312	456
Galloway v. Galloway (1914), 30 L.T. 531	93
General Dairies v. Maritime Electric Co., [1935] 4 D.L.R. 196; S.C.R. 519	104, 105, 106
General Finance Corp. (Yarmouth) Ltd., in re, [1941] 1 D.L.R. 746 (N.S.)	362, 363
General Security Ins. Co. v. Howard Sand & Gravel Co. Ltd., [1954] S.C.R. 785	202
George (Porky) Jacobs Enter. Prizes Ltd. v. City of Regina (1964), 44 D.L.R. (2d) 179 (S.C.C.)	129
Gibson v. Mackay (1907), 10 O.W.R. 1081	529
Gilbert v. Gonard (1884), 54 L.J. Ch. 439	183, 358
Gill v. Reveley, 132 F. 2d (10th Cir., 1943)	459
Re Gillespie [1969] 1 O.R. 585 (C.A.)	68
Gissing v. T. Eaton Co. (1911), 25 O.L.R. 50 (C.A.)	457
Gladu v. Edmonton Land Co. (1914), 19 D.L.R. 688 (Alta.)	457
Glavasky v. Stadnick, [1937] O.R. 35 (C.A.)	69
Grace v. Keubler (1918), 38 D.L.R. 149	76
Grantham v. Toronto (1847), 3 U.C.Q.B. 212	445
Great Nthn. Rlwy. v. Swaffield (1874), L.R. 9 Ex.132	511, 514
Green v. Portsmouth Stadium, Ltd., [1953] 2 Q.B. 190	143
Greer v. Faulkner (1908), 40 S.C.R. 399	220
Gregory v. Williams (1916), 30 D.L.R. 279; 44 N.B.R. 204 (C.A.)	238
Griesshammer v. Ungerer (1958), 14 D.L.R. (2d) 599 (Man.C.A.)	458
	468
Griffin v. Weatherby (1868), L.R. 3 Q.B. 753	224, 230
Griffith v. Crocker (1891), 18 A.R. 370	377
_____ v. Patterson (1873), 20 Gr. 615	520
Guardian Assce. v. Chicoutimi (1915), 51 S.C.R. 562	76
Gwilliam v. Twist [1895] 2 Q.B. 84	516
HAIGH v. Kaye (1872), L.R. 7 Ch.App. 469	235
Hall v. Barclay, [1937] 3 All E.R. 620 (C.A.)	
Hallett's Estate, Re Knatchbull v. Hallett (1880), 13 Ch.D. 696 (C.A.)	63, 176, 336, 338, 340, 345, 346, 347 349, 366, 372, 374, 379, 380, 405
Hamilton v. Spottiswoode (1849), 4 Ex. 200; 154 E.R. 1182	225, 228
Hanes v. Wawanesa Mutual Ins. Co. (1963), 36 D.L.R. (2d) 718	149
Hanna (M.A.) Co. v. Provincial Bank of Canada, [1953] 1 D.L.R. 545 (S.C.C.)	306, 307
Harburg India Rubber Comb. Co. v. Martin, [1902] 1 K.B. 788	247
Hardie & Lane v. Chilton, [1928] 2 K.B. 306	428
Harris-Carnegie, [1933] 4 D.L.R. 760	501
_____ v. Harris (No. 2) (1861), 29 Beav. 110; 54 E.R. 568	65, 66
Harrison v. Walker (1792), Peake 150; 170 E.R. 111	183

Harse v. Pearl Life Assurance Co., [1904] 1 K.B. 558	432
Hart v. Howard (1884), 44 Ark. 560	530
Hassall v. Smithers (1806), 12 Ves. 119; 33 E.R. 46	174
Hastings v. Village of Semans, [1946] 4 D.L.R. 695	512
Hawtayne v. Bourne (1841), 7 M.& W. 595; 151 E.R. 905	511, 516
Heilbut v. Nevill (1876), L.R. 5 C.P. 478	200
Henry v. Hammond. [1913] 2 K.B. 515	306
Heron, in re; ex p. Robertson, [1933] 4 Ch.R. 43; 15 C.B.R. 39	410
Herring v. Wilson (1883), 4 O.R. 607 (C.A.)	16
Hewer v. Bartholomew (1598), Cro. Eliz. 614; 78 E.R. 855	4
Hill v. Kirshenstein, [1920] 3 K.B. 556	113
Hime and Ledley, in re, (1889), 13 P.R. 1	79
Hislop v. Joss (1901), 3 O.L.R. 281	253
Hnatuck v. Chretien (1960), 31 W.W.R. 130 (B.C.)	453
Hochman v. Ziglars Inc., 50 A. 2d 97 (N.J., 1946)	459
Hollwell v. Wilmot (1897), 24 O.A.R. 628	362
Holt v. Markham, [1923] 1 K.B. 504	86, 99, 104
Hoff v. Lester 168 P. (2d) 409	219
Hollinger Cons. Gold Mines v. N. Ontario Power Corp., [1940] 1 D.L.R. 516	444
Hollington v. Hewthorn, [1943] 2 All E.R. 35 (C.A.)	150
Hood of Avalon (Lady) v. Mackinnon, [1909] 1 Ch. 476	86, 93
Hossack v. Shaw (1918) 56 S.C.R. 581	129
Houghton, in re, [1915] 2 Ch. 173	147, 148
Howard v. Wood (1679), 2 Lev. 245; 83 E.R. 540	4, 29
Hrynyk v. Hrynyk, [1932] 1 W.W.R. 82 (Man.C.A.)	456
Huddersfield Banking Co. v. Henry Lister & Son, [1895] 2 Ch. 273	133
Hughes v. Northern Electric Co. (1915), 50 S.C.R. 626	513
Hunter v. Soucie (1956), 5 D.L.R. (2d) 651 (B.C.)	246
Hunter v. Welsh (1816), 1 Stark 224; 171 E.R. 454	192
Hydro Electric Power Comn. v. Brown (1959), 21 D.L.R. (2d) 551 (Ont.C.A.)	306, 360
IMPERIAL Bank of Canada v. Bank of Hamilton (1903) A.C. 49	86
Imperial Glass Ltd. v. Consolidated Supplies Ltd. (1960), 22 D.L.R. (2d) 759 (B.C.C.A.)	122
Imperial Loan & Inv. Corp. v. O'Sullivan (1879), 8 P.R. 162	78
Inche Noriah v. Shaik Allie Bir Omar, [1929] A.C. 127 (P.C.)	463
Ingles v. Sun Life Assce. [1937] 1 D.L.R. 706; O.R. 373 affd [1938] 3 D.L.R. 80	1
Inrig Shoe Co. Ltd., in re, (1924), 4 C.B.R. 516	125, 132
Inwards v. Baker, [1965] 1 All E.R. 446	245
Israel v. Douglas (1789) 1 Hy. Bl. 239; 126 E.R. 139	221, 222, 227 228, 230
JACKSON & Muir & Co., in re, [1935] 2 D.L.R. 808; 16 C.B.R. 181	406
Jacobs v. Allen (1703), 1 Salk 27; 91 E.R. 26	5
Jacques, in re, (1968), 66 D.L.R. (2d) 447 (N.S.Co.Ct.)	47, 503
Jacobs (George, Porky) Enterprises Ltd. v. City of Regina (1964), 44 D.L.R. (2d) 179 (S.C.C.)	429, 436, 442
James, ex p. (1802), 8 Ves. 337; 32 E.R. 385	273, 276, 321
_____ (1874), L.R. 9 Ch. App. 609	131, 240, 448
_____ v. British General Ins., [1927] 2 K.B. 311	160
_____ v. Smith, [1891] 1 Ch. 384	235
Jebara v. Ottoman Bank, [1927] 2 K.B. 254; revd [1928] A.C. 269	516
John v. Dodwell & Co., [1918] A.C. 563	86, 87
Johnson, in re, [1950] 2 D.L.R. 69 (K.B. Man.)	146, 154
_____ v. Wild (1890), 44 Ch.D. 146	83
Jones v. Clifford (1876), 3 Ch.D. 779	133
_____ v. DeMarchand (1916), 28 D.L.R. 561 (Man.C.A.)	214
_____ v. Waring & Gillow, [1926] A.C. 670 (H.L.)	86, 99, 106, 112 204

Kansas City Wholesale Grocery Co. v. Weber Packing Corp., 73 P. 2d 1272 (Ut., 1937)	483
Kasumu v. Baba-Egbe, [1956] 3 All E.R. 266 (H.L.)	166
Keddy v. Poner [1952] 4 D.L.R. 486 (N.S.)	133, 451
Keech v. Sandford (1726) Sel. Cas. t. King (Ch.) 61; 25 E.R. 223	273, 276, 277, 281, 294, 300, 321, 325
Kelly v. Macklem (1867), 14 Gr. 29	253
_____ v. Metropolitan Rlwy., [1895] 1 Q.B. 944	194
_____ v. Solari (1841), 9 M.& W. 54; 152 E.R. 24	86, 90, 108, 113 133, 203, 204
Kennedy r.de Trafford, [1897] A.C. 180	319
Keoghan r. Holland, [1948] 1 D.L.R. 605 (N.S.)	238
Kerrison v. Glyn Mills, Currie & Co. (1912), 81 L.J.K.B. 465	99
Kiewit (Peter) Sons Constr. v. Eakins Constr., 22 D.L.R.(2d) 465; S.C.R. 369	43, 428, 447
King v. Leith (1787), 2 T.R. 141; 100 E.R. 77	11, 30, 200
Kingshot v. Brunskill, [1953] O.W.N. 133 (C.A.)	163
Kiriri Cotton Co. Ltd. v. Ranchhudas Keshavji Dewani, [1960] A.C. 192, 1 All E.R. 177	94, 114, 141, 432, 438, 448
Kirk v. Todd (1882), 21 Ch.D. 484	208
Knatchbull v. Hallett:- see Hallett's Estate, in re	336
Knupp v. Bell (1967), 58 D.L.R. 466; affd, 67 D.L.R.(2d) 256 (Sask.C.A.)	453
Knutson v. Bourkes Syndicate, [1941] 3 D.L.R. 593; S.C.R. 419	437
	438, 443
Kocotis v. d'Angelo (1958), 13 D.L.R. (2d) 69 (Ont.C.A.)	162
Krebs v. World Finance Co. Ltd. (1958), 14 D.L.R. (2d) 405 (B.C.C.A.)	95
LA FONCIÈRE Cie d'Assurance v. Perras [1943] 2 D.L.R. 129, S.C.R. 165	159
Lacey (Wm.) Ltd. v. Davis, [1957] 1 W.L.R. 992; 2 All E.R. 712	36
Lamb v. Evans, [1893] 1 Ch. 218	284
Lambert Implements Ltd. v. Pardell (1964), 50 W.W.R. 310 (Alta)	502
Lambton v. Pousett (1862), 21 U.C.Q.B. 472 (C.A.)	444
Lamine v. Dorrell (1705), 2 Ld. Raym. 1216; 92 E.R. 303	28, 208
Lamson & Hubbard v. Calhoun, [1923] 2 D.L.R. 1170	33
Langan v. Great Western Rlwy. (1873), 30 L.T. 173	511, 515
Langley v. Kahnert (1904), 7 O.L.R. 356	352, 358
Langton v. Hughes (1813), 1 M.& S. 593; 105 E.R. 222	142
Langville v. Nass (1917), 36 D.L.R. 368, 51 N.S.R. 429	235
Lansdown v. Lansdown (1730) Mos. 364; 25 E.R. 441	129
L'Apostre v. Le Plaistrier (1708), 2 Eq.Cas.Abr. 133n; 22 E.R. 96	173
Larner v. London County Council, [1949] 2 K.B. 683	93
Larose v. Webster (1914), 14 D.L.R. 79 (Alta. C.A.)	
Latham v. Father Divine, 85 N.E. 2d 168 (N.Y., 1949)	160
Law v. Harrigan (1917), 33 T.L.R. 381	94
Law Society of Upper Canada v. City of Toronto (1866), 25 U.C.Q.B. 199 (C.A.)	91
Lawrie v. Rathbun (1876), 38 U.C.R. 255	63, 64
Lawton v. Champion (1854), 18 Beav. 87; 52 E.R. 35	138, 450
Leaf v. International Galleries, [1950] 2 K.B. 86	122
Ledwell v. Charlottetown Light & Power Co. (1914), 13 E.L.R. 225 (P.E.I.C.A.)	521
Legal & General Ins. Co. v. Vogue Cafe, [1949] 1 W.W.R. 269(B.C)	10
Leigh v. Burnett (1885), 29 Ch.D. 231	252, 253
_____ v. Dickeson (1884) 15 Q.B.D. 60	114, 489, 492
Lerner v. The Queen (1963), 39 C.R. 347	482
Letang v. Cooper, [1964] 2 All E.R. 929 (C.A.)	52
Leuty v. Hillas (1858), 2 De G & J. 110; 44 E.R. 929	118, 119, 120
Levinson v. Gault (1915), 9 O.W.N. 14	16
Lewis v. Andover & Elec. Commrs. [1929] 1 D.L.R. 34 (N.B.)	444

Lickbarrow v. Mason (1787), 2 T.R. 63; 100 E.R. 35	99
Lightly v. Clouston (1808), 1 Taunt, 112; 127 E.R. 774	5, 200, 201
	208
Lilly v. Hays (1836), 5 Ad.& E. 548; 111 E.R. 1272	222, 229, 230
Lincoln (Earl) v. Topcliff (1597), Cro.Eliz. 644; 78 E.R. 883	4
Lindon v. Hooper (1770), 1 Cowp. 414; 98 E.R. 1160	31
Lindsay v. Freda, [1923] 2 D.L.R. 1180 (N.S.)	528
Lissenden v. C.A.V. Bosch, [1940] A.C. 412 (H.L.)	195
Lister & Co. v. Stubbs (1890), 45 Ch.D. 1 (C.A.)	181, 182, 306
Little v. Dundas & Road Co. (1853), 2 U.C.C.P. 399 (C.A.)	444
Liversidge v. Broadbent (1859) 4 H.& N. 603; 157 E.R. 978	222, 228
	229, 230
Livesay v. Livesay (1827), 3 Russ. 287; 38 E.R. 583	132
Lodge v. Nat'l Union Inv. Co. Ltd., [1907] 1 Ch. 300	166
London Guarantee & Accident Ins. Co. v. Henderson (1915), 8 W.W.R. 1260 (Man.)	132, 448
Longton v. Wilsby (1897), 76 L.T. 770	271
Lord Strathcona Steamship Co. v. Dominion Coal Co., [1926] A.C. 108 (P.C., N.S.)	259, 262, 263
Loring v. Baker, 106 N.E. 2d 434 (Mass., 1952)	368
Lowe v. Wells Fargo & Co. Express, 96 P. 74 (Kans., 1908)	93
Lumley v. Broadway Coffee Ltd., [1935] 1 D.L.R. 813, affd 2 D.L.R. 417 (Ont.C.A.)	168
Lumley & Gye (1853), 2 E.& B. 216; 118 E.R. 749	261, 262
Lundy v. Lundy (1895), 24 S.C.R. 650	156
Lupton v. White (1808), 15 Ves. 432; 33 E.R. 817	345, 346, 347
	373, 405
McBRIDE v. McNeil (1912), 9 D.L.R. 503, 27 O.L.R. 455	73
McCormick v. Grogan (1869), L.R. 4 H.L. 82	58
McCulley v. Ward (1863), 10 N.B.R. 505	201
McCullough v. Marsden (1919), 45 D.L.R. 645 (M.C.A.)	368
MacDonald (C.A.) & Co. Ltd., in re, (1958), 17 D.L.R. (2d) 416; 29 D.L.R. (2d) 146	403
McElroy v. Woods (1964), 45 D.L.R. (2d) 379	483
MacFarlane v. Kennedy (1956), 3 D.L.R. (2d) 757 (Ont.)	112
McKinnon v. Lundy (1893), 24 O.R. 132, affd 21 O.A.R. 560	156
McKissick v. Hall, [1929] 1 D.L.R. 48 (Sask.C.A.)	489
McIntosh-Marshall Equipment Ltd., in re, (1968), 68 D.L.R. (2d) 673 (C.A.)	360
McLeod, in re, (1949), 29 C.B.R. 163 (Ont.)	360
McLeod & More v. Swezey, [1944] 2 D.L.R. 145; S.C.R. 111	182, 303
	308, 330
McMillan v. Barton (1890), 19 O.A.R. 602 affd 20 S.C.R. 404	235
MACCLESFIELD v. Great Central Rlwy. Co., [1911] 2 K.B. 528 (C.A.)	444
	525
Maddison v. Alderson (1883), 8 App.Cas. 472	244
Magee v. Pennine Ins. Co., [1969] 2 All E.R. 891 (C.A.)	138
Magill, in re, (1933), 15 C.B.R. 154 (Ont.)	406, 410
Magyar v. Snowden [1971] 1 O.R. 447	523
Major v. Canadian Pacific Rlwy. (1922), 70 D.L.R. 242; 64 S.C.R. 367	164
Maralta Oil Co. v. Industrial Incomes Ltd. (1964), 46 D.L.R. (2d) 511 (Alta., C.A.)	307
Marquest Industries Ltd. v. Willows Poultry Farms Ltd. (1957), 63 D.L.R. (2d) 753; (1968), 1 D.L.R. (3d) 513	125
Marriot v. Hampton (1797), 7 T.R. 269, 101 E.R. 696 (K.B.)	11, 108
	450
Marsh v. Keating (1834), 1 Bing.N.C. 198; 131 E.R. 1094	30
Marshall v. Canada Permanent Trust Co. (1968), 69 D.L.R. (2d) 260 (Alta.)	453
Marshall v. Curry, [1933] 3 D.L.R. 260	511
Martin v. Morgan (1819), 1 B.& B. 289; 129 E.R. 734	200

Maskell v. Horner, [1915] 3 K.B. 106 (C.A.)	97, 421, 431, 432 440, 441
Massachusetts Bonding & Ins.Co. v. Josselyn, 194 N.W. 548 (Mich., 1928)	349
Matheson v. Smiley, [1932] 2 D.L.R. 787 (Man.C.A.)	526
Mattinson v. Piercey Supplies Ltd. (1968), 69 D.L.R. (2d) 665 (NS)	359
Mayor & of Newport v. Saunders (1832), 3 Barn & Ad. 411; 110 E.R. 148	5
Meinhard v. Salmon, 249 N.Y. 548 (1928)	267
Merchants Express Co. v. Morton (1868), 15 Gr. 274	184
Metropolitan Asylum District v. Hill (1881), 6 App.Cas. 193	527
Meyricks' Settlement, in re, [1921] 1 Ch. 311	254
Midcon Oil & Gas Ltd. v. New British Dominion Oil Co. Ltd. (1958), 12 D.L.R. (2d) 705 (S.C.C.)	265, 314
Midland-Osler Securities v. Dudek (1966), 56 D.L.R. (2d) 378 (Man.)	102
Miller, in re, [1938] 1 D.L.R. 65 (S.C.C.)	
Miller, Court & Manley Ltd., in re, [1940] 3 W.W.R. 184 (B.C.)	406
Miller v. Race (1758), 1 Burr. 452; 97 E.R. 398	171, 175
Ministry of Health v. Simpson [1951] A.C. 251:- see Diplock, in re,	
Mistry Amar Singh v. Kulubya, [1963] 3 All E.R. 499	163
Monmouthshire C.C. v. Smith, [1956] 1 W.L.R. 1132 affd, [1957] 2 W.L.R. 33	523
Morgan v. Ashcroft, [1938] 1 K.B. 49 (C.A.)	93, 97
Morehouse v. Income Investments Ltd. (1965), 53 D.L.R. (2d) 106 (Ont.Co.Ct.)	467
Morgan v. Palmer (1824), 2 B.& C. 729; 107 E.R. 554	449
Morrell v. Wootton (1852), 16 Beav. 197; 51 E.R. 753	229, 231, 232
Morrison v. Canadian Surety Co., [1954] 4 D.L.R. 736	49, 54
_____ v. Coast Finance Corp. (1966), 55 D.L.R. 710; 54 W.W.R. 257 (B.C.C.A.)	453, 454
Morton Construction Co. Ltd. v. City of Hamilton (1961), 31 D.L.R. (2d) 323 (Ont.C.A.)	427, 444, 460
Moses v. Macferlan (1760), 2 Burr. 1005; 97 E.R. 676 (K.B.)	5, 7, 11 21, 22, 142, 207
Motor Sales Co. Ltd., in re, (1923), 4 C.B.R. 63 (Ont.)	183, 352
Moule v. Garrett (1872), L.R. 7 Ex. 101	13, 204, 205, 499
Mulholland v. Merriam (1872), 19 Gr. 288	236
Mulloy v. Hop Sang, [1935] 1 W.W.R. 714 (Alta.C.A.)	530
Mundinger v. Mundinger (1969), 3 D.L.R. (3d) 338 (Ont.C.A.)	453
Munroe v. Willmott, [1949] 1 K.B. 295	213
Munroe (Robt.) & Co. v. Meyer, [1930] 2 K.B. 312	483
Murchy v. Stewart, [1926] 3 D.L.R. 448 (Alta.)	245
Murray v. Veinotte, [1951] 2 D.L.R. 721 (N.S.C.A.)	417, 441
N.Y. Life Ins. Co. v. Nashville, 292 S.W. 2d 749 (Tenn., 1956)	10
Nakashidze, in re, (No. 2), [1948] 2 D.L.R. 522	402
National Sanitarium Assn. v. Mattawa, [1925] 2 D.L.R. 491	513
Naylor v. Winch (1824), 1 Sim.& St. 555; 57 E.R. 219	451
Neate v. Harding (1851), L.R. 6 Ex. 350	200
Nebraska Nat'l. Bank v. Johnson, 71 N.W. 294 (Neb., 1897)	185
Nelson v. Larholt, [1947] 2 All E.R. 751	332, 335
New Zealand & Aust. Land Co. v. Watson (1881), 7 Q.B.D. 382	64, 306
New Zealand Shipping Co. Ltd. v. Société des Ateliers et Chantiers de France, [1919] A.C. 1	252, 254, 256
Niagara Penn. Music Co., in re, (1929), 11 C.B.R. 66 (Ont.)	360
Nicholson v. Chapman (1793), 2 H.Bl 254; 126 E.R. 536	516, 532
Nilsen and Metropolitan Toronto v. MacGregor (1965), 52 D.L.R. (2d) 15 (Ont.)	523
Noble v. National Discount Co. (1860), 5 H.& N. 225; 157 E.R. 1167	229
Noble v. Township of Brantford, 39 D.L.R. (2d) 610, [1963] 2 O.R. 393	435, 438, 440
North v. Walthamstow U.D.C. (1898), 67 L.J. (Q.B.) 972	425

Northern Elevators v. Western Jobbers (1914), 20 D.L.R. 889; affd 24 D.L.R. 605	306
Norton v. Haggett, 85 A 2d 571 (Vt., 1952)	190
Nunn v. Fabian (1865), L.R. 1 Ch.App. 35	245
 OATWAY : Hertslett v. Oatway, in re, [1903] 2 Ch. 356	338, 346, 349
	372, 373
O'Grady v. City of Toronto (1916), 37 O.L.R. 139	87, 127, 129, 441
O'Hearn v. Yorkshire Ins. Co. (1921), 67 D.L.R. 735 (Ont.C.A.)	157, 160
Oldwright v. Hamilton Power (1904), 3 O.W.R. 16 affd 397	521
Olwell v. Nye & Nissen Co. 173 P. 652 (Wash., 1946)	217
Opera Ltd., in re, [1891] 2 Ch. 154	131
Orr v. Lane (1951), 52 S.R.(N.S.W.) 37	183
Orr v. Orr (1874), 21 Gr. 397	244
Otis v. Weedmark (1911), 4 Sask.L.R. 531 (C.A.)	15, 16, 498
Owston v. Grand Trunk Rlwy. (1881), 28 Gr. 431	65, 66
Oxford's (Earl) Case (1615), 1 Ch.Rep. 1; 21 E.R. 485	116
 PAHARA v. Pahara, [1946] S.C.R. 89	66
Parker v. England (1856), 8 N.B.R. 340	201
Parker v. McKenna (1874), 10 Ch.App. 96;	276, 281, 285, 291, 325
Parry v. Cleaver [1969] 1 All E.R. 555 H.L.	523
Patterson Motors (1962) Ltd. v. Riley (1966), 56 D.L.R. (2d) 278 (Sask.)	101
Paxton v. Spira (1965), 53 W.W.R. 344 (B.C.)	262
Pennell v. Defell (1853), 4 DeG.M. & G. 372; 43 E.R. 551	341, 344
	345, 374
Peso Silver Mines (N.P.L.) Ltd. v. Cropper (1965), 56 D.L.R. (2d) 117; affd, 58 D.L.R. (2d) 1 (S.C.C.)	290
Philips v. Thompson (1675), 3 Lev. 69; 83 E.R. 581, 645	4
Phillips v. Homfray (1883), L.R. 24 Ch.D. 439 (C.A.)	207
Phipps v. Boardman:- see Boardman v. Phipps	300, 368
Pike, in re, (1888), L.R. 23 Jr. 9	532
Pillsworth v. Town of Cobourg, [1930] 4 D.L.R. 757 (Ont.C.A.)	446
Pitts, Cox v. Kilsby, in re, [1931] 1 Ch. 546	149
Pollard v. Bank of England (1871), L.R. 6 Q.B. 623	87
Pommerenke v. Bate (1910), 3 Sask. L.R. 410	334
Pople v. Town of Dauphin (1921), 30 D.L.R. 30 (Man.C.A.)	421, 441
Popyk v. Western Savings & Loan Assn. (1969), 3 D.L.R. (3d) 511 (Alta.C.A.)	468
Port Line Ltd. v. Ben Line Steamers Ltd., [1958] 1 All E.R. 787	262
Porter v. Grand Trunk Pacific Rlwy. (1919), 45 D.L.R. 749	522
Powell v. Rees (1837), 7 A. & E. 426; 112 E.R. 530	200
Pownall v. Ferrand (1827), 6 B. & C. 439; 108 E.R. 513	14, 17, 18, 502
Prager v. Blatspiel Stamp & Heacock Ltd., [1924] 1 K.B. 566	514
Pretu v. Tidy (1966), 54 D.L.R. (2d) 504	217
Proctor v. Gamble (1858), 16 U.C.Q.B. 110 (C.A.)	16
Proprietary Mines Ltd. v. MacKay, [1939] 3 D.L.R. 215	49
Pupkowski, in re, (1956), 6 D.L.R. (2d) 427	152
Purity Dairy Ltd. v. Collinson (1966), 58 D.L.R. (2d) 67 (B.C.C.A.)	90, 102
Purtle v. Heney (1896), 33 N.B.R. 607 (C.A.)	197
Pusey v. Pusey (1684), 1 Vern. 273; 23 E.R. 465	170
 QUEEN (The) v. Beaver Lamb & Co., 23 D.L.R. (2d) 513; [1960] S.C.R. 505	441, 450
v. Premier Mouton Products Inc., 27 D.L.R. (2d) 639; [1961] S.C.R. 361	444
Quintal v. Kerr, [1960] O.W.N. 147 (C.A.)	445
Quistclose Investments Ltd. v. Rolls Razor Ltd., [1968] 1 All E.R. 613 (C.A.)	357

R. v. Canus of N. America Ltd. (1964), 48 W.W.R. 232(Sask.C.A.)	482
R. v. Choquette (1947), 89 C.C.C. 207 (Que.)	422
R. v. Collister and Warhurst (1955), 39 Cr. App. R. 100	422
R. v. Denyer, [1926] 2 K.B. 258	428
R. v. Electricity Commrs. (1923), 39 T.L.R. 715 (C.A.)	514
R. v. Ferguson [1970] 2 All E.R. 820	
R. v. Hargreaves (1959), 124 Can.C.C. 167 (B.C.)	186
R. v. Southerton (1805), 6 East 126; 102 E.R. 1235	422
R. v. Walton (1863), 2 Q.B. 969; 114 E.R. 375	422
Rados v. Neumann [1971] 2 O.R. 269	523
Ralph v. Family Assce. Society (1961), 37 W.W.R. 240 (B.C.C.A.)	32
	53
Ramsden v. Dyson (1865), L.R. 1 H.L. 129	241, 244
Randall v. Russell (1817), 3 Mer. 190; 36 E.R. 73	274, 281
Reading v. Attorney-General, [1951] A.C. 507;	
[1951] 1 All E.R. 617 (H.L.)	26, 48, 52, 270, 284, 285, 325
Reckitt v. Barnett, Pembroke v. Slater Ltd., [1929] A.C. 176	333
Reeve v. Abraham (1957), 22 W.W.R. 429	50
Regal (Hastings) Ltd. v. Gulliver, [1942] 1 All E.R. 378	269, 274
	281, 282, 284, 285, 293, 294, 295, 298, 321, 325
Regent Taxi v. Petits Freres Maristes, [1929] S.C.R. 653	76
Reid, in re, (1964), 46 D.L.R. (2d)	47, 508
Reversion Fund v. Maison Cosway Ltd., [1913] 1 K.B. 364	89, 498
Rhodes, in re, (1890) 41 Ch.D. 94 (C.A.)	19, 528, 530
Rice v. Reed, [1960] 1 Q.B. 54	195
Riddell v. McRae (1917), 34 D.L.R. 102	115, 488, 492, 501
Right House Ltd. v. Esseltine, [1951] O.W.N. 871 (C.A.)	520
Rivers v. Roe, (1877) 4 U.C.C.P. 21	502
Robb v. Green, [1895] 2 Q.B. 315	269
Roberts, in re, [1905] 1 Ch. 704	138
Roberts v. Wyatt (1810), 2 Taunt. 268; 127 E.R. 1080	256
Roblin v. Jackson, (1901), 13 Man. R. 328	61, 355, 366
Rochefoucauld v. Boustead, [1897] 1 Ch. 196	234
Rogers v. Ingham (1876), L.R. 3 Ch.App. 351	134, 142, 432, 450
Rookes v. Barnard, [1964] A.C. 1129	216
Roscoe (Jas., Bolton) Ltd. v. Winder, [1915] 1 Ch.62	349, 350, 361
Rosenberg v. Quan (1958), 14 D.L.R. (2d) 415 (Ont.)	500
Rosenthal v. Alderton & Sons Ltd., [1946] 1 All E.R. 374 (C.A.)	210
Routtu v. Routtu, [1955] 1 D.L.R. 627 (N.B.)	524
Rowe v. Public Trustee (1963), 38 D.L.R. (2d) 462 (Ont.)	46, 508
Rowland v. Divall, [1923] 2 K.B. 500 (C.A.)	443
Rouse v. Harris (1963), 39 D.L.R. (2d) 29 (Ont.)	93
Royal Bank v. Boyce, [1966] 2 O.R. 607 (Co.Ct.)	92
_____ v. The King, [1931] 1 W.W.R. 709 (Man.)	85, 97, 98, 441
Royal Securities Ltd. v. Montreal Trust, [1967] 2 O.R.200 (C.A.)	92
Royal Trust Co. v. Pacific Petroleum Ltd. (1968),	
66 D.L.R. (2d) 375 (Alta., C.A.)	511
SACHS v. Miklos, [1948] 2 K.B. 23 (C.A.)	210, 519
St. John v. Fraser-Brace Overseas Corp., 13 D.L.R. (2d) 177,	
[1958] S.C.R. 263	432, 441
St. John Shipping Corp. v. Rank, [1956] 3 All E.R. 683	161
St. John Tugboat v. Irving Refinery Ltd.(1964),	
46 D.L.R. (2d) 1 (S.C.C.)	37
Saltman Eng. Co. v. Campbell Eng. Co., (1948),	
65 R.P.C. 203; [1963] 3 All E.R. 413	258
Samilo v. Phillips (1968), 69 D.L.R. (2d) 411 (B.C.)	19, 501
Sanderson v. Halstead (1968), 67 D.L.R. (2d) 567	239
Sanderson and Saville, in re, (1912), 6 D.L.R. 319; 26 O.L.R.616	152
Santell, in re, (1933), 14 C.B.R. 320	131, 448
Scarf v. Jardine (1887), 7 App.Cas. 345	194
Scherbanuk v. Skorodoumov, [1935] O.R. 342	70
Scheuerman v. Scheuerman (1916), 28 D.L.R. 223, 52 S.C.R. 625	235
Schmidt (Walter J.) & Co. 298 F. 315 (N.Y., 1923)	379
Schobelt v. Barber, 59 D.L.R. (2d) 519; [1967] 1 O.R. 349	151
Scott v. Coulson, [1903] 2 Ch. 249 (C.A.)	124
_____ v. Pattison [1923] 2 K.B. 723	40, 42

Scott v. Surman (1742), Willes 400, 125 E.R. 1235	61, 171, 173, 343
Scott & Manor Investments, in re, [1961] O.W.N.	210 461
Seager v. Copydex Ltd. [1969] 2 All E.R. 718 (C.A.)	216
Sears v. Tanenbaum (1968), 70 D.L.R. (2d) 126 (Ont.)	238
Sebel Products Ltd. v. Commrs. of Customs, [1949] 1 All E.R. 729	444
Senkiw v. Muzyka (1967), 65 D.L.R. (2d) 622 (Sask.)	10
Shallcross v. Oldham (1862), 2 J.& H. 609; 70 E.R. 1202	284
_____ v. Wright (1850), 12 Beav. 558; 50 E.R. 1174	525
Shamia v. Joory, [1958] 1 Q.B. 448, 1 All E.R. 111	223, 226, 230 231, 236
Shaw v. Woodcock (1827), 7 B.& C. 73; 108 E.R. 652	502
Shedler v. Jackson, [1954] O.W.N. 245	461
Sherman v. Weber (1933), 167 A. 517	153
Sherrin v. Haggerty, [1953] O.W.N. 962	517
Sherwood v. Walker, 33 N.W. 919 (Mich., 1887)	125
Sidmay Ltd. v. Wehttam Inv. Ltd., 54 D.L.R. (2d) 194; [1966] O.R. 457 revd 61 D.L.R. (2d) 358 and 69 D.L.R. (2d) 336 (S.C.C.)	163; 164, 165, 169, 448 338
Sievevright v. Leys (1882), 1 O.R. 375	444
Sifton v. Toronto, [1929] S.C.R. 484	211
Silsbury v. McCoon (1850), 3 N.Y. 379	132
Simmonds, in re, (1885), 16 Q.B.D. 308 (C.A.)	511, 513
Sims v. Midland Rlwy., [1913] 1 K.B. 103	17, 21, 23, 24, 25, 68, 176 362, 363, 385, 386, 390, 406
Sinclair v. Brougham, [1914] A.C. 398	270
_____ v. Purdy, 139, N.E. 255 (N.Y., 1922)	511
Sinclair Canada Oil v. Pacific Petroleum Ltd. (1969), 2 D.L.R. (3d) 338 (S.C.C.)	164
Singh v. Singh Estate (1963), 39 D.L.R. (2d) 510 (B.C.)	62
Skyring v. Greenwood & Cox (1825), 4 B.& C. 281; 107 E.R. 1064	87, 100, 102, 104, 105, 106
Slade's Case (1602), 4 Co.Rep. 92b; 76 E.R. 1074	7, 8, 22, 30
Slator v. Nolan (1876), 11 I.R. Eq. 367	452
Slessor & Co. v. Westeel Products Ltd. (1965), 50 D.L.R. (2d) 53 (Sask.)	232
Smith v. Baker (1873), L.R. 8 C.P. 350	192, 195
_____ v. Bromley (1760), 2 Dougl. 696n; 99 E.R. 441	142
_____ v. Hodson (1791), 4 T.R. 211; 100 E.R. 979	201
_____ v. Hughes (1871) L.R. 6 Q.B. 597	37, 122
_____ v. Smith, [1952] 3 D.L.R. 449	150
Soldier's Memorial Hospital v. Sanford, [1934] 2 D.L.R. 334 (N.S.)	529
Solle v. Butcher, [1950] 1 K.B. 671	94, 125
Somerset (Duke) v. Cookson (1735), 3 P.Wms. 390; 24 E.R. 1114	170
Spalding v. A.W. Gamage Ltd. (1915), 32 R.P.C. 273	213
Springer v. Gt. Western Rlwy. Co., [1921] 1 K.B. 257	513, 514
Standard Imports Ltd., in re, ex p. Canadian Express Co. (1922), 2 C.B.R. 206 (Que.)	366
Standish v. Ross (1849), 3 Ex. 527; 154 E.R. 954	99, 106
Starke v. Cheesman (1790), 1 Ld. Raym. 538; 91 E.R. 1259	22
Steen v. Gunnar Mining Ltd. (1963), 37 D.L.R. (2d) 97 (Ont.C.A.)	49 52
Steinberg v. Cohen, [1930] 2 D.L.R. 916, 64 O.L.R. 545 (C.A.)	167, 416
Stenning, in re, [1895] 2 Ch. 433	380
Sterling Engineering Co. Ltd. v. Patchett, [1955] 1 All E.R. 369	284
Stewart v. Molybdenum Mining & Production Co. Ltd. (1921), 60 D.L.R. 597 (B.C.C.A.)	257
Stobie-Forlong-Mathews Ltd., in re, [1931] 3 D.L.R. 170; 12 C.B.R. 313	407
Stoltze v. Fuller, [1939] S.C.R. 235	412, 416, 441
Strand Electric Ltd. v. Beisford Entertainments Ltd., [1952] 1 All E.R. 796	209
Szczepkowski v. Eppler, [1945] 4 D.L.R. 104 (Ont.C.A.)	350
TATE v. Williamson (1866) L.R. 2 Ch.App. 55	
Tatlock v. Harris (1789), 3 T.R. 174; 100 E.R. 517	227

Taylor v. Plumer (1815), 3 M.& S. 562; 105 E.R. 721	61, 172, 336
_____ v. Davies (1918), 41 D.L.R. 510, affd 51 D.L.R. 75(P.C.)	343
_____ v. Taylor (1935), 2 I.L.R. 32 (Ont.Co.Ct.)	67
_____, in re; Turpin v. Pain (1890), 44 Ch.D. 128	239
Tetley v. British Trade Corp. (1922), 10 U.L.R. 678	338
Thelluson, in re, [1919] 2 K.B. 735	511, 512
Thompson v. Clydesdale Bank, [1893] A.C. 282	125, 126, 240
_____ v. Crawford, [1932] 2 D.L.R. 466 (Ont.C.A.)	87
_____ v. Merchants Bank (1919), 58 S.C.R. 287	131
_____ v. Schneider, [1929] 1 D.L.R. 989 (N.S.C.A.)	231
_____ v. Stikeman (1913) 29 O.L.R. 146	423
Thorne v. Motor Trade Assn., [1937] A.C. 797	132
Tilley's Will Trusts, in re [1967] 2 All E.R. 303	427
Tombill Gold Mines Ltd. v. Hamilton (1956), 5 D.L.R. (2d) 561 (S.C.C.)	346
Tophams Ltd. v. Lord Sefton, [1966] 1 All E.R. 1039 (H.L.)	308
Tornroos v. Crocker and Croquip Ltd. (1956), 3 D.L.R. (2d) 9 (B.C.C.A.)	262
Tottenham v. Bedingfield (1572), 3 Leon. 24; 74 E.R. 517	334
Tournier v. National Provincial Bank, [1924] 1 K.B. 461	4
Toussaint v. Martinnant (1787), 2 T.R. 100; 100 E.R. 55	269
Townsend v. Crowdy (1860), 8 C.B.(N.S.) 477; 141 E.R. 1251	18
Traders Realty Ltd. v. Huron Heights Shopping Plaza Ltd. (1967), 64 D.L.R.(2d) 278	87
_____ v. Stevensons Road Realty Co. Ltd., [1968] 1 O.R. 791	80, 501
Triplex Safety Glass Co. v. Scoriah, [1937] 4 All E.R. 693	499
Trusts Corp. v. Toronto (1898), 30 O.R. 209 (Div.Ct.)	284
Tucker v. Puget Sound Bridge & Dredging Co. (1910), 15 B.C.R. 393	94, 450
Tufton v. Sporni, [1952] 2 T.L.R. 516	508
Tulk v. Moxhay (1848), 2 Pl. 774; 41 E.R. 1143	457
Turner v. Davies (1796), 2 Esp. 478; 170 E.R. 425	260
Tweddle v. Atkinson (1861), 1 B.& S. 393; 121 E.R. 762	5
Tyler, in re; ex p The Official Receiver [1907] 1 K.B. 805	237
	125, 240
ULSTER Building Co., in re, L.R. 25 Ir. 24	372
Union Bank v. Ontario Bank (1880), 24 L.C.Jur. 309 (C.A.)	101
Union Carbide Canada Ltd. v. Scott-Foster Ltd.(1965), 53 D.L.R. (2d) 407 (C.A.)	217
Union Trust Co. v. Cwynar, 131 A 2d 133 (Me., 1957)	470
United Australia Ltd. v. Barclay's Bank, [1941] A.C.1	26, 30, 192
United Dominion Promotion Sales Inc. v. Shaw (1957), 9 D.L.R. (2d) 759 (N.B.)	164
Upton-on-Severn R.D.C. v. Powell, [1942]; 1 All E.R. 220 (C.A.)	37
Unsworth v. Grant (1969), 3 D.L.R. (3d) 689 (Ont.C.A.)	248
VALPEY v. Manley (1845), 1 C.B. 594; 135 E.R. 673	444
Van Wagner v. Findlay (1867), 14 Gr. 53	361
Vanzant v. Coates (1917), 39 D.L.R. 485; 40 O.L.R. 556	419
Verschures Creameries Ltd. v. Hull & Netherlands Steamship Co., [1921] 2 K.B. 608	193
W.W. Distributors & Co. Ltd. v. Thorsteinssen (1960), 33 W.W.R. 669 (Man.C.A.)	458, 477
Walker v. Rostron (1842), 9 M.& W. 411; 152 E.R. 174	222, 224
	225, 229
Walmsley v. Bull (1868), 15 Gr. 210	338
Ware and De Freville's Case, [1921] 3 K.B. 40	428
Waterloo Mfg. Co. v. Kirk (1911), 21 Man.R. 457 (C.A.)	231
Waters v. Donnelly (1884), 9 O.R. 391	420, 452
Watson v. Dowser (1881), 28 Gr. 178	78
Wayne Coal Co. Ltd., in re; Schultz's Case (1920), 55 D.L.R. 327 (Alta.)	353, 355

Weld-Blundell v. Synott, [1940] 2 K.B. 107	92
Weldon v. Canadian Surety Co. (1966), 64 D.L.R. (2d) 735 (N.S.)	54
Wescana Carpets Ltd. v. Bennett (1967), 61 D.L.R. (2d) 632 (Sask.)	240
Western Trust Co. v. Wan Sing and Moose Jaw Securities Ltd. (1920), 56 D.L.R. 584 (Sask., C.A.)	352
Whitecomb v. Jacob (1710), 9 An. Salk, 160; 91 E.R. 149	173, 343
Whitelaw v. Wilson, [1934] 3 D.L.R. 554 (Ont.)	155
Whiteley v. Hilt, [1918] 2 K.B. 808	170
Whitham v. Bullock, [1939] 2 K.B. 81	80
West v. Benjamin (1895), 29 S.C.R. 282	132
Wharton v. Walker (1825), 4 B. & C. 163; 107 E.R. 1020	228
Wheeler v. Rosedale Manor Apts. Ltd., [1959] O.R. 641	510
White ex p., in re, Nevill (1871), L.R. 6 C.L. App. 397	358
Whitney v. Smith (1869), L.R. 4 Ch. App. 513	281, 285
Wiggins Ltd., in re, [1931] 3 D.L.R. 383	402, 409
Williams, in re, (1871), 31 U.C.Q.B. 143	32, 192
_____ v. Bayley (1866), L.R. 1 H.L. 200	470
_____ v. Everett (1811), 14 East 582; 104 E.R. 725	228, 229
Willmott v. Barber (1880), 15 Ch.D., 101	241
Wilson v. Coupland (1821), 5 B. & Ald. 228; 106 E.R. 1176	228
_____ v. Mason (1876), 38 U.C.Q.B. 14 (C.A.)	206
Wood v. McMartin (1917), 54 Que.S.C. 391	529
Woodward v. Aston (1672) 2 Mod. 95; 86 E.R. 961	4
Workmen's Compensation Board and Klemchuk v. Spence (1962), 41 W.W.R. 407	523
YOUNG v. Ashburnham's (1587), 3 Leon. 161; 74 E.R. 606	6
ZWICKER v. Pettingill, [1931] 2 D.L.R. 95 (N.W.C.A.)	239
_____ v. Stanbury, [1953] 2 S.C.R. 376	295, 298, 325

10

20

CHAPTER I

30

Section 1

40

50

The object of this introductory Section is to present very briefly an over-all view of the history of the development of the common law remedies which are now subsumed under the rubric of Restitution. This whole area of the law has suffered inordinately from fluctuating vogues in judicial approach over the years, with the result that it is very nearly impossible to state any rule without fear of contradiction from some Judge speaking from another, different era. At one time or another it has been thought to be (a) impossible to give restitution at all; (b) impossible unless within the limits of some implied contract; (c) possible if "just and reasonable" to do so; (d) possible if in accordance with the principles of unjust enrichment. It is necessary to have some understanding of the theoretical bases for, and the scope of these various swings in opinion if one is to be able to place judicial pronouncements from even the recent past in their historical and analytical context - whether that be for the purpose of distinguishing them out of all countenance, or propping them up as "pillars of ancient wisdom".

60

Of course this debate on the theoretical basis and the necessary conditions for the application of restitutionary remedies did not take place in a vacuum. The pressures of cases requiring decision necessitated the continued use of these remedies by the Courts even if no agreement existed as to their essential nature or their position in the analytical framework of the law. Accordingly, this Chapter, in both its principal Sections, will also provide you with a glimpse of the major restitutionary remedies at work. You should consider as you proceed, whether some of these cases do not require "explaining" in the light of refinements later developed in the remedies actually administered under each descriptive name - e.g. have we maintained a uniform notion of the scope of "money had and received" or "constructive trust"?

